

|         |          |
|---------|----------|
| Adopted | Rejected |
|---------|----------|

## COMMITTEE REPORT

|      |    |
|------|----|
| YES: | 19 |
| NO:  | 4  |

### MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred Senate Bill 199, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 6-1.1-19-5.6 IS ADDED TO THE INDIANA
- 4       CODE AS A NEW SECTION TO READ AS FOLLOWS
- 5       [EFFECTIVE JULY 1, 2001]: **Sec. 5.6. A school corporation may**
- 6       **appeal to the state board of tax commissioners under this chapter**
- 7       **to increase the school corporation's general fund levy. To be**
- 8       **granted an increase by the state board of tax commissioners, the**
- 9       **school corporation must establish that the increase is necessary**
- 10       **because employee health insurance costs increased over the**
- 11       **preceding year as a result of at least one (1) of the following:**
- 12       **(1) A health insurance premium increase that did not result**
- 13       **from a change in the design of the school corporation's health**
- 14       **insurance plan.**

(2) An increase in the enrollment in the school corporation's health insurance program.

In addition, before the state board of tax commissioners may grant a general fund levy increase, the school corporation must establish that the school corporation will be unable, without an increase, to provide insurance coverage at the current level of coverage. The state board of tax commissioners may grant a levy increase that is less than the increase requested by the school corporation under this section.

SECTION 2. IC 6-3.5-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 8. Local Option Income Tax for Education**

**Sec. 1.** As used in this chapter, "adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

**Sec. 2.** As used in this chapter, "apportioned net income" means net income (as defined in IC 6-3-8-2) multiplied by:

(1) the assessed value of all property of a corporation that is:

(A) taxable under IC 6-1.1; and

(B) located in the school corporation; divided by

(2) the assessed value of all property of the corporation that is:

(A) taxable under IC 6-1.1; and

(B) located in Indiana.

**Sec. 3.** As used in this chapter, "corporate taxpayer" means a corporation that has net income for the taxable year under IC 6-3-8.

**Sec. 4.** As used in this chapter, "department" refers to the department of state revenue.

**Sec. 5.** As used in this chapter, "individual taxpayer" means an individual who resides in a school corporation on the date specified in section 16 of this chapter.

**Sec. 6.** As used in this chapter, "school corporation" means a public school corporation established by Indiana law.

**Sec. 7. (a)** The governing body of a school corporation may impose a local option income tax for education, which consists of a tax on the adjusted gross income of individual taxpayers and on the apportioned net income of corporations. If the tax is imposed,

1 the tax takes effect July 1 of the year that the ordinance imposing  
2 the tax is adopted.

3 (b) Except as provided in subsection (c), the tax on individual  
4 taxpayers and on corporate taxpayers may be imposed at a rate of  
5 not more than twenty-five hundredths percent (0.25%). The rate  
6 applies to the adjusted gross income of the school corporation's  
7 individual taxpayers and to the apportioned net income of the  
8 school corporation's corporate taxpayers. The rate must be the  
9 same for individual taxpayers and for corporate taxpayers.

10 Sec. 8. (a) To impose the local option income tax for education,  
11 a governing body of a school corporation must, after January 1 but  
12 before May 1 of a year, adopt an ordinance. The ordinance must  
13 substantially state the following:

14 "The \_\_\_\_\_ Governing Body imposes the local option  
15 income tax for education on the individual taxpayers and  
16 corporate taxpayers of the \_\_\_\_\_ (insert name of school  
17 corporation). The local option income tax for education  
18 consists of an individual income tax and a corporate surtax.  
19 The income tax is imposed at a rate of \_\_\_\_\_ percent  
20 (\_\_\_\_ %) on the individual taxpayers and corporate  
21 taxpayers of the school corporation. The income tax takes  
22 effect July 1 of this year."

23 (b) An ordinance adopted under this section takes effect July 1  
24 of the year the ordinance is adopted.

25 Sec. 9. (a) The governing body of a school corporation may  
26 increase or decrease the local option income tax for education rate  
27 imposed on individual taxpayers and corporate taxpayers. To  
28 increase or decrease the rate, the governing body must, after  
29 January 1 but before May 1 of a year, adopt an ordinance. The  
30 ordinance must substantially state the following:

31 "The \_\_\_\_\_ Governing Body increases (or decreases) the  
32 local option income tax for education rate. The tax rate  
33 imposed upon the individual taxpayers and on corporate  
34 taxpayers of the school corporation is increased (or  
35 decreased) from (insert current rate) to (insert proposed  
36 rate). This tax rate increase (or decrease) takes effect July 1  
37 of this year for individual taxpayers. The increased (or  
38 decreased) rate takes effect January 1 of next year for

1 corporate taxpayers."

2 (b) An ordinance adopted under this section takes effect July 1  
3 of the year the ordinance is adopted.

4 Sec. 10. (a) The local option income tax for education imposed  
5 by a governing body under this chapter remains in effect until  
6 rescinded.

7 (b) A governing body may rescind the local option income tax  
8 for education by adopting an ordinance to rescind the tax after  
9 January 1 but before June 1 of a year.

10 (c) An ordinance adopted under this section takes effect July 1  
11 of the year the ordinance is adopted.

12 Sec. 11. If the local option income tax for education is not in  
13 effect during an individual taxpayer's or a corporate taxpayer's  
14 entire taxable year, the amount of local option income tax for  
15 education that the taxpayer owes for that taxable year equals the  
16 product of:

17 (1) the amount of the local option income tax for education the  
18 taxpayer would owe if the tax had been imposed during the  
19 taxpayer's entire taxable year; multiplied by

20 (2) a fraction. The numerator equals the number of days  
21 during the taxpayer's taxable year that the local option  
22 income tax for education was in effect. The denominator  
23 equals the total number of days in the taxpayer's taxable year.

24 Sec. 12. (a) If, for a particular taxable year, an individual  
25 taxpayer is allowed, or an individual taxpayer and the individual  
26 taxpayer's spouse who file a joint return are allowed, a credit for  
27 the elderly or the totally disabled under Section 22 of the Internal  
28 Revenue Code (as defined in IC 6-3-1-11), the individual taxpayer  
29 is entitled, or the individual taxpayer and the individual taxpayer's  
30 spouse are entitled, to a credit against their local option income tax  
31 for education liability for that same taxable year. The amount of  
32 the credit equals the lesser of the following:

33 (1) The product of:

34 (A) the credit for the elderly or the totally disabled for the  
35 same taxable year; multiplied by

36 (B) a fraction. The numerator is the local option income  
37 tax for education rate imposed against the individual  
38 taxpayer or the individual taxpayer and the individual

1 taxpayer's spouse. The denominator is fifteen-hundredths  
2 (0.15).

3 (2) The amount of local option income tax for education  
4 imposed on the individual taxpayer or the individual taxpayer  
5 and the individual taxpayer's spouse.

6 (b) If an individual taxpayer and the individual taxpayer's  
7 spouse file a joint return and are subject to different local option  
8 income tax for education tax rates for the same taxable year, they  
9 shall compute the credit under this section by using the formula  
10 provided in subsection (a), except that they shall use the average of  
11 the two (2) tax rates imposed against them as the numerator  
12 referred to in subsection (a)(1)(B).

13 Sec. 13. (a) A special account within the state general fund shall  
14 be established for each school corporation adopting the local  
15 option income tax for education. Revenue derived from the  
16 imposition of the local option income tax for education by a school  
17 corporation shall be deposited in that school corporation's account  
18 in the state general fund.

19 (b) Income earned on money held in an account under  
20 subsection (a) becomes a part of that account.

21 (c) Revenue remaining in an account established under  
22 subsection (a) at the end of a state fiscal year does not revert to the  
23 state general fund.

24 Sec. 14. Revenue derived from the imposition of the local option  
25 income tax for education shall be distributed to the school  
26 corporation that imposed the tax not more than thirty (30) days  
27 after the tax is deposited within the school corporation's account.

28 Sec. 15. (a) The county auditor shall each year reduce the  
29 general fund property tax levy of a school corporation receiving a  
30 distribution under this chapter in that year. The school  
31 corporation's general fund property tax levy shall be reduced by  
32 the amount of the distribution received or to be received by the  
33 school corporation during the year. The state board of tax  
34 commissioners shall certify to the auditor of each county in which  
35 a school corporation receiving a distribution is located the  
36 property tax rate applicable to the school corporation's general  
37 fund after the property tax reduction under this section.

38 (b) A school corporation shall treat a distribution that the school

corporation receives or is to receive during a particular calendar year as a part of the school corporation's property tax levy for the general fund for that same calendar year for purposes of fixing the school corporation's budget and for purposes of the property tax levy limits imposed by IC 6-1.1-19 and the calculation of state tuition support under IC 21-3-1.7. However, the distributions shall not reduce the total county tax levy that is used to compute the state property tax replacement credit under IC 6-1.1-21. In addition, for the purposes of computing and distributing any excise taxes or income taxes in which the distribution is based on property taxes, the distributions shall be treated as though they were property taxes that were due and payable during that same calendar year.

(c) A school corporation may use distributions received under this chapter only for the purpose of making employer contributions to the Indiana state teachers' retirement fund on behalf of the school corporation's employees who are members of that fund.

Sec. 16. (a) For purposes of this chapter, an individual shall be treated as an individual taxpayer of the school corporation in which the individual:

- (1) maintains a residence, if the individual maintains only one residence in Indiana;
- (2) if subdivision (1) does not apply, registers to vote;
- (3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or
- (4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time in Indiana during the taxable year in question.

(b) Whether an individual is an individual taxpayer is determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes the location of the individual's residence to another school corporation in Indiana during a calendar year, the individual's liability for local option income tax for education is not affected.

Sec. 17. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

- (1) definitions;

- (2) declarations of estimated tax;
- (3) filing of returns;
- (4) remittances;
- (5) incorporation of the provisions of the Internal Revenue Code;
- (6) penalties and interest;
- (7) exclusion of military pay credits for withholding; and
- (8) exemptions and deductions;

apply to the imposition, collection, and administration of the tax imposed by this chapter. The local option income tax for education is a listed tax and an income tax for purposes of IC 6-8.1.

(b) The provisions of IC 6-3-1-3.5(a)(5), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

(c) Each employer shall report to the department the amount of withholdings attributable to each school corporation. This report shall annually be submitted with the employer's withholding report.

**Sec. 18. Before February 1 of each year, the department shall submit a report to each county treasurer indicating the balance in the school corporation's education income tax account at the end of the preceding year. The county treasurer shall forward a copy of the report to the school corporation.**

SECTION 3. IC 6-8.1-1-1, AS AMENDED BY P.L.181-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); **the local option income tax for education (IC 6-3.5-8)**; the auto rental excise tax (IC 6-6-9); the bank tax (IC 6-5-10); the savings and loan association tax (IC 6-5-11); the production credit association tax (IC 6-5-12); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax

collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 4. IC 20-5-4-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1.7. (a) For purposes of this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after the termination of their employment by the school corporation under an existing or previous employment agreement.**

**(b) In addition to the purposes set forth in section 1 of this chapter, a school corporation may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following limitations:**

**(1) A school corporation may issue bonds for the purpose described in this section only one (1) time.**

**(2) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's existing unfunded contractual liability for retirement or severance payments, as of June 30, 1998.**

**(3) The amount of the bonds that may be issued for the purpose described in this section may not exceed two percent (2%) of the total assessed valuation of property in the school corporation.**

**(4) Each year that a debt service levy is needed under this**



section, the school corporation shall reduce its total property tax levy for the school corporation's transportation, capital projects, or art association and historical society funds in an amount equal to the property tax levy needed for the debt service under this section. The property tax rate for each of these funds shall be reduced each year until the bonds are retired.

(c) Bonds issued for the purpose described in this section shall be issued in the same manner as other bonds of the school corporation.

(d) Bonds issued under this section must be issued before December 31, 2003."

Page 2, line 2, delete "actuarially pre-fund" and insert "fund on an actuarially sound basis".

Page 2, line 7, delete "pre-fund" and insert "fund on an actuarially sound basis".

Page 2, after line 11, begin a new paragraph and insert:

"SECTION 6. IC 21-2-15.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 15.5. Health Insurance and Retirement Benefit Fund**

**Sec. 1.** As used in this chapter, "fund" refers to a health insurance and retirement benefit fund established under section 2 of this chapter.

**Sec. 2.** A school corporation may establish a health insurance and retirement benefit fund.

**Sec. 3.** A school corporation may use money in a fund only for the purposes of paying the following:

(1) Employee health insurance costs.

(2) Benefits under a retirement or severance plan established by the school corporation.

**Sec. 4.** A school corporation may for a year impose a property tax levy for its health insurance and retirement benefit fund that is equal to the sum of the following:

(1) If a school corporation has not imposed the maximum property tax rate that it may impose for the school corporation's capital projects fund under IC 21-2-15 for a year, the amount that would be raised from a property tax

- 1 rate that does not exceed the lesser of:
- 2 (A) eight and thirty-three hundredths cents (\$0.0833); or
- 3 (B) the difference between:
- 4 (i) the maximum property tax rate that may be imposed
- 5 for the school corporation's capital projects fund under
- 6 IC 21-2-15 for the year; minus
- 7 (ii) the property tax rate that is imposed for the school
- 8 corporation's capital projects fund under IC 21-2-15 for
- 9 the year.
- 10 (2) If a school corporation has not imposed the school
- 11 corporation's maximum permissible transportation fund levy
- 12 under IC 21-2-11.5 for the year, an amount equal to the
- 13 difference between:
- 14 (A) the school corporation's maximum permissible
- 15 transportation fund levy under IC 21-2-11.5; minus
- 16 (B) the transportation fund levy imposed by the school
- 17 corporation for the year under IC 21-2-11.5.
- 18 (3) If a school corporation has not imposed the maximum
- 19 property tax rate that it may impose for the school
- 20 corporation's historical society fund under IC 20-5-17.5 for a
- 21 year, the amount that would be raised from a property tax
- 22 rate equal to the difference between:
- 23 (A) maximum property tax rate that it may impose for the
- 24 school corporation's historical society fund under
- 25 IC 20-5-17.5 for the year; minus
- 26 (B) property tax rate imposed by the school corporation
- 27 for its historical society fund under IC 20-5-17.5 for the
- 28 year.
- 29 (4) If a school corporation has not imposed the maximum
- 30 property tax rate that it may impose for the school
- 31 corporation's art association fund under IC 20-5-17.5 for a
- 32 year, the amount that would be raised from a property tax
- 33 rate equal to the difference between:
- 34 (A) maximum property tax rate that it may impose for the
- 35 school corporation's art association fund under
- 36 IC 20-5-17.5 for the year; minus
- 37 (B) property tax rate imposed by the school corporation
- 38 for its art association fund under IC 20-5-17.5 for the year.

1       **Sec. 5. Interest earned on amounts in the fund shall be deposited**  
 2       **in the fund.**

3       SECTION 7. IC 20-5-4-1.7 IS REPEALED [EFFECTIVE  
 4       DECEMBER 31, 2003].

5       SECTION 8. [EFFECTIVE DECEMBER 31, 2003]  
 6       **Notwithstanding the repeal of IC 20-5-4-1.7, as added by this act,**  
 7       **the following provisions apply to bonds issued under IC 20-5-4-1.7,**  
 8       **as added by this act, before December 31, 2003:**

9               **(1) The bonds remain valid and binding obligations of the**  
 10              **school corporation that issued them, as if IC 20-5-4-1.7 had**  
 11              **not been repealed.**

12              **(2) Each year that a debt service levy is needed for the bonds,**  
 13              **the school corporation that issued the bonds shall reduce its**  
 14              **total property tax levy for the school corporation's other**  
 15              **funds in an amount equal to the property tax levy needed for**  
 16              **the debt service on the bonds.**

17       SECTION 9. [EFFECTIVE JULY 1, 2001] **(a) IC 6-1.1-19-5.6, as**  
 18       **added by this act, applies to property taxes first due and payable**  
 19       **after December 31, 2001.**

20              **(b) This SECTION expires January 1, 2003.**

21       SECTION 10. [EFFECTIVE JULY 1, 2001] **IC 21-2-15.5, as added**  
 22       **by this act, applies only to property taxes first due and payable**  
 23       **after December 31, 2001.**

24       SECTION 11. **An emergency is declared for this act."**

25       Renumber all SECTIONS consecutively.

(Reference is to SB 199 as reprinted February 13, 2001.)

**and when so amended that said bill do pass.**

---

Representative Bauer